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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

5 * * *

6 UNITED STATES OF AMERICA,
7
8 Plaintiff,
9
10 v.
11
12 VICTOR ADAM RAMIREZ,
13
14 Defendant.

Case No. 2:16-cr-00265-GMN-CWH

ORDER

15 Presently before the court is defendant Victor Adam Ramirez's motion for release of
16 grand jury transcripts (ECF Nos. 1050, 1057), filed August 14, 2018, and the government's
17 response (ECF No. 1184), filed September 27, 2018. Ramirez did not file a reply.

18 Defendants Morales, Halgat, Perez, Coleman, Henderson, Juarez, and Garcia move to join
19 the motion. (ECF Nos.1062, 1063, 1069, 1077, 1083, 1094, 1101).

20 On June 14, 2017, a federal grand jury seated in the District of Nevada, returned a
21 superseding criminal indictment charging defendant Ramirez with Conspiracy to Participate in a
22 Racketeering Enterprise, in violation of Title 18, United States Code, Section 1962(d),
23 Kidnapping, in violation of Title 18, United States Code, Sections 1959(a)(1) and 2, and Assault,
24 in violation of Title 18, United States Code, Sections 1959(a)(3) and 2. (Superseding Indictment
25 (ECF No. 13).)

26 Ramirez moves for the production of grand jury transcripts to ascertain whether the jury
27 was made to rely upon improperly ascertained, or false statements, in reaching an indictment
28 against him, or in the alternative, copies of the parts that mention his name. Ramirez suspects
that Agent Brancato misrepresented statements to the grand jury, and the transcripts would allow
evaluation of the truthfulness of the agent's statements. The government responds that Ramirez
fails to demonstrate a need for early disclosure of grand jury transcripts.

1 **I. ANALYSIS**

2 Rule 6(e) of the Federal Rules of Criminal Procedure codifies the traditional rule of grand
3 jury secrecy. With specified exceptions, it prohibits disclosure of “matters occurring before the
4 grand jury.” Fed. R. Crim. P. 6(e)(2). “A party seeking disclosure of the grand jury transcripts
5 must demonstrate a ‘particularized need’ for the disclosure.” *United States v. Perez*, 67 F.3d
6 1371, 1381 (9th Cir. 1995), *opinion withdrawn in part on reh’g*, 116 F.3d 840 (9th Cir. 1997)
7 (citations omitted). The standards the trial court should apply in granting disclosure of the grand
8 jury transcripts are “(1) that the desired material will avoid a possible injustice, (2) that the need
9 for disclosure is greater than the need for continued secrecy, and (3) that only the relevant parts of
10 the transcripts should be disclosed.” *Id.*

11 Ramirez argues only that he credibly suspects that Agent Brancato misrepresented his
12 statements to the grand jury. But Ramirez provides absolutely no basis for his suspicion.¹
13 “Unsubstantiated, speculative assertions of improprieties in the proceedings do not supply the
14 particular need required to outweigh the policy of grand jury secrecy.” *United States v.*
15 *Ferreboeuf*, 632 F.2d 832, 835 (9th Cir. 1980). Accordingly, the motion is denied. Ramirez will
16 have the opportunity to cross-examine Agent Brancato if he is called to testify at trial, and if so,
17 should be provided his prior statements under the Jencks Act. 18 U.S.C. § 3500.

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27 ¹ The government suggests that Ramirez’s suspicion results from a disproved report and
28 recommendation in a different, but related case. Ramirez did not reply. The court declines to evaluate this
motion on such a suggestion.

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IT IS FURTHER ORDERED that Ramirez's motion for release of grand jury transcripts (ECF Nos. 1050, 1057) is DENIED.

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